



## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Monthly Enforcement Report for actions during May 2008

DISTRIBUTED: June 11, 2008

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*This report has been prepared to satisfy a statutory obligation DEP has to inform the public of certain enforcement resolutions. Please contact Peter Carney at (207) 287-4305 or [Peter.J.Carney@Maine.gov](mailto:Peter.J.Carney@Maine.gov) for additional information regarding the activities listed in this report.*

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The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose civil penalties to deter similar actions in the future.

#### **Administrative Consent Agreements Approved by the Board of Environmental Protection and Office of the Attorney General (party followed by location):**

##### *Air:*

**Lincoln Paper and Tissue, LLC, Lincoln, Maine.** Lincoln Paper and Tissue, LLC ("Lincoln Paper") violated provisions of its Department-issued air emission license by exceeding emission limits for particulate matter and total reduced sulfur. To resolve the violations, Lincoln Paper paid \$5,500 as a civil monetary penalty.

##### *Biomedical Waste:*

**Associated Health Resources, Inc., Pittsfield, Maine.** Associated Health Resources, Inc. ("AHR") violated terms of its Department-issued License and the Department's *Biomedical Waste Management Rules*. AHR failed to operate two Hydroclave units pursuant to the facility's operation plan, operated the two Hydroclave units without maintaining printed parameter recorders as required, operated a shredder such that it failed to render treated biomedical waste unrecognizable, stored three boxes of biomedical waste in an area not designated for storage or secured from unauthorized personnel, and failed to keep biomedical waste containers securely closed or sealed. Furthermore, despite requirements to maintain stored pathological waste in a frozen state, the facility's refrigeration unit was operating at 45 degrees F. Following Department involvement, AHR arranged for an independent audit of its facility and ceased the processing of biomedical waste in its Hydroclave units and shredder. To resolve the violations, AHR agreed to cease treatment of biomedical waste using the Hydroclave units and shredder referenced in its License and to no longer treat biomedical waste unless it obtains a modification or amendment of its License to use equipment other than the licensed Hydroclaves and shredder. Furthermore, AHR agreed to store containers of biomedical waste in properly designated areas and securely close and/or seal such containers, maintain the temperature of the refrigeration unit consistent with the requirements of its License, and submit to the Department for review the audit report prepared by AHR's consultant. AHR paid \$17,000 as a civil monetary penalty.

##### *Land:*

**Town of Frankfort, Frankfort, Maine.** The Town of Frankfort ("Frankfort") violated provisions of Maine's *Natural Resources Protection Act* by dredging a stream and placing fill in and adjacent to a freshwater wetland and stream without first obtaining a permit from the Department, *Erosion and Sedimentation Control Law* by filling, displacing or exposing soil without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource, and *Protection and Improvement of Waters Law* by discharging soil to waters of the State without first obtaining a permit from the Department. Specifically, Frankfort replaced a culvert with a larger culvert, resulting in a 18-24" drop in the water level of a freshwater wetland at the culvert's upper end. In addition, Frankfort ditched the culvert's outlet stream. The dredged soil material covered approximately 4500 square feet of natural buffer area within thirty-five feet of the stream, of which 2,000 square feet was placed in a freshwater wetland within twenty-five feet of the stream. Frankfort did not first obtain a permit for these activities. At the time of the Department's inspection, no erosion controls were observed. Following Department involvement, Frankfort placed mulch on the exposed soils adjacent to the stream and wetland. During a subsequent inspection,



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Department staff observed that Frankfort grubbed approximately 1,000 feet of road ditches and soil material from the ditches was disposed of within twenty feet of a stream along a fifty foot stretch of stream bank. A significant amount of silt and sediment was observed in the stream and coastal wetland. Frankfort did not first obtain a permit for these activities. At the time of the Department's inspection, erosion controls were inadequate to prevent soil material from eroding beyond the project boundary. To resolve the violations, Frankfort agreed to submit a restoration plan to stabilize soils and remove fill from within seventy feet of streams at the sites. Furthermore, the Frankfort's Public Works Director and at least two other foremen agreed to attend a Department Nonpoint Source Training Center workshop. Frankfort paid \$3,000 as a civil monetary penalty.

**Douglas Lavallee and Colleen Lavallee, Bowdoin, Maine.** Douglas Lavallee and Colleen Lavallee (hereinafter collectively "Lavallee") violated provisions of Maine's *Natural Resources Protection Act* by failing to follow a restoration plan approved by the Department. Specifically, Lavallee had only planted five of fifteen fir trees required under a restoration plan approved by the Department pursuant to the requirements of an after-the fact permit for the construction of a driveway adjacent to the East Branch of the Cathance River. Following Department involvement, Lavallee completed the plantings in accordance with the restoration plan. To resolve the violation, Lavallee paid \$1,200 as a civil monetary penalty.

**Lupo Construction, Inc., Etna, Maine.** Lupo Construction, Inc. ("Lupo") violated provisions of Maine's *Stormwater Management Law* by starting construction of a project that includes one acre or more of disturbed area without first obtaining a permit from the Department. Specifically, Lupo had grubbed and disturbed soil on approximately five acres and constructed a paved parking area and garage which resulted in approximately 40,000 square feet of impervious area. Following Department involvement, three foremen from Lupo attended a Department Nonpoint Source Training Center workshop. To resolve the violation, Lupo agreed to submit an after-the-fact application for the soil disturbance and construction of impervious areas and immediately comply with all terms of the after-the-fact application if approved, or if the application is wholly or in part denied, returned, withdrawn or not submitted, submit a restoration plan to the Department to remove the impervious surfaces on the site and replant the area with mixed native deciduous and coniferous trees. Lupo paid \$2,625 as a civil monetary penalty.

**Packard Development LLC and Alvin J. Coleman and Son, Inc., Biddeford, Maine.** The Department issued a permit under the *Site Location of Development Law* to Packard Development LLC ("Packard") for the construction of a commercial development. Alvin J. Coleman and Son, Inc. ("Coleman") was hired by Packard as general contractor to construct the development. Packard and Coleman violated the *Site Location of Development Law* by failing to follow the project's erosion control plan, Maine's *Natural Resources Protection Act* and *Water Pollution Control Law* by allowing soil to enter wetlands, and Maine's *Erosion and Sedimentation Control Law* by conducting an activity that involves filling, displacing or exposing soil without taking measures to prevent unreasonable erosion beyond the project site or into a protected natural resource. Specifically, Coleman, as Packard's contractor, kept between twenty and thirty-five acres of disturbed land open for construction despite an approved erosion control plan which limited disturbance to no more than ten acres at a time. In addition, site inspections documented that soil was discharged to wetlands, erosion control measures at the site were insufficient to prevent turbid run-off from discharging beyond the project site, and a portion of the site had not been stabilized in accordance with the project's erosion control plan. To resolve the violations, Packard and Coleman agreed to a civil monetary penalty of \$70,000, which has been paid.



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**Strouts Point Wharf Company, Freeport, Maine.** Strouts Point Wharf Company ("Strouts Point") violated provisions of Maine's *Natural Resources Protection Act* by dredging a coastal wetland without first obtaining a permit from the Department. Specifically, Strouts Point dredged sediment from a travel lift well. Following Department involvement, Strouts Point submitted an after-the-fact permit application to dredge approximately fifteen cubic yards of sediment from the travel lift well. A permit was subsequently issued by the Department. To resolve the violation, Strouts Point paid \$2,194 as a civil monetary penalty.

*Mining:*

**Goldmark, LLC, Sanford, Maine.** Goldmark, LLC ("Goldmark") violated Maine's *Performance Standards for Excavations* by operating a gravel pit larger than ten acres without obtaining a variance. Department staff determined through the use of aerial photographs and ground survey equipment that Goldmark's gravel pit was more than twenty acres in size. Following Department involvement, Goldmark notified the Department that approximately five acres of the pit were loamed and seeded, and submitted an after-the-fact variance application to operate a working pit larger than ten acres. To resolve the violation, Goldmark agreed to immediately comply with all terms of the after-the-fact permit if the after-the-fact application is approved, or if the after-the-fact application is wholly or in part denied, withdrawn or returned, submit a restoration plan to the Department that describes the necessary measures to reduce the size of the working pit to less than ten acres. Goldmark paid \$4,500 as a civil monetary penalty.

*Oil:*

**Colby & Gale, Inc. and Day Block Trust, Damariscotta, Maine.** Colby & Gale, Inc. ("Colby & Gale"), a heating oil delivery and oil burner service company, failed to remove, seal or cap an abandoned oil line in a building owned by Day Block Trust ("Day Block"). Oil leaked from the abandoned line and migrated from the basement of the Day Block building to a storm sewer under the sidewalk on Main Street, Damariscotta and then into the Damariscotta River. Following discovery of the leak, Colby & Gale removed and capped the abandoned oil line. Day Block agreed to pay a \$750 deductible to the Ground Water Oil Clean-up Fund related to clean up costs incurred by the Department. Colby & Gale and Day Block paid \$9,000 as a civil monetary penalty.

**Regina Properties LLC, Dannie Davidson, and Key Automotive, Inc., Kittery, Maine.** Dannie Davidson, Regina Properties, LLC, and Key Automotive, Inc., violated provisions of the Department's *Rules for Underground Oil Storage Facilities* by failing to remove all liquids that can be pumped from and underground oil storage tank prior to removal, and Maine's *Underground Oil Storage Facilities and Ground Water Protection Law* by causing a prohibited discharge of oil while removing an unregistered bare steel underground oil storage tank. Dannie Davidson is an organizer and Member of the Regina Properties, LLC, which owns the subject property, and President and Treasurer of Key Automotive, Inc., an auto repair corporation operating on the Regina Properties, LLC site (Davidson, the company, and the corporation are hereinafter collectively referred to as "Davidson"). Davidson first failed to remove the tank's liquid contents and then ruptured the tank during the removal process. The leak caused a prohibited discharge of oil to soil, which Davidson failed to immediately clean up. In addition, a review of Department records demonstrated that Davidson had failed to register the underground oil storage tank with the Department as required by the *Underground Oil Storage Facilities and Ground Water Protection Law*. To resolve the violations, Davidson agreed to register the abandoned tank, reimburse the State's Groundwater Oil Clean up Fund \$90 for investigation and clean up costs, and paid \$1,600 as a civil monetary penalty.



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**Estes Oil Burner Service, Inc., Ogunquit, Maine.** Estes Oil Burner Service, Inc. ("Estes") violated provisions of Maine's *Oil Discharge Prevention and Pollution Control Law* on two occasions by causing a prohibited discharge at a private residence totaling between 20.25 and 50.25 gallons of oil and by failing to immediately undertake clean-up measures. To resolve the violations, Estes agreed to submit for the Department's review and approval a written operating procedure for spill reporting and emergency response, and paid \$6,500 as a civil monetary penalty.

**Webber Tanks, Inc., Bucksport, Maine.** Webber Tanks, Inc. ("Webber") violated provisions of Maine's *Oil Discharge and Pollution Control Law* by failing to maintain a license to operate an oil terminal facility, and the Department's *Oil Discharge Prevention and Pollution Control Rules for Marine Oil Terminals, Transportation Pipelines and Vessels Rules* by transferring oil at an unlicensed oil terminal facility between September 3, 2006 and February 28, 2007. Specifically, Webber accepted approximately eighteen transfers of oil at the Bucksport site after their marine oil terminal license expired on September 3, 2006 and before Webber applied for a license renewal in March, 2007. To resolve the violations, Webber paid \$12,000 to the Town of Bucksport for a Supplemental Environmental Project concerning oil spill mitigation equipment and training, and paid \$3,000 as a civil monetary penalty.

*Water:*

**Lewiston-Auburn Water Pollution Control Authority, Lewiston, Maine.** In 2002, the Lewiston-Auburn Water Pollution Control Authority ("LAWPCA") entered into an administrative consent agreement with the Department to resolve violations of the facility's waste discharge license which included violations of narrative conditions regarding bypass of treatment when flows were below design levels and violations of the numeric limits of the facility's license. A provision in the 2002 consent agreement required LAWPCA to submit a plan for primary treatment capacity expansion within twelve months of the completion of other required projects. In 2007, it was agreed to by LAWPCA and the Department that a primary capacity expansion plan would be premature until more flow-control work was accomplished under the Lewiston-Auburn Clean Water Act Master Plan. The 2002 agreement was, therefore, amended to require LAWPCA to submit with the second five-year update of the Lewiston-Auburn Clean Water Act Master Plan, due in 2010, an assessment of, and implementation schedule for, the construction of such facilities necessary to ensure that flows identified in the agreement are provided primary treatment and disinfection prior to discharge.

**Superior Court Enforcement Resolutions (party followed by location):**

*Oil:*

**State of Maine, Department of Environmental Protection v. First Chance, Inc., Kennebunk, Maine.** In a Consent Judgment and Order entered into by the parties, First Chance, Inc. agreed to pay a sum of \$31,291.85 in settlement of the Department's claims for reimbursement of expenditures by the Department for remediation of an oil spill into the Kennebunk River in September 2004 as asserted in the Department's complaint. The sum includes over \$7,000 in interest.